

The Cigarette Tax Increase to Finance SCHIP

Updated March 6, 2009

Congressional Research Service

<https://crsreports.congress.gov>

RS22681

Summary

On January 15, the House passed H.R. 2, a bill which included increased tobacco taxes to finance State Children's Health Insurance Program (SCHIP). This legislation was similar to that passed in the 110th Congress (H.R. 976 and H.R. 3162) although the initial House proposal had smaller tax increases.. H.R. 2 increases cigarette taxes, the primary source of tobacco tax revenues from 39 cents to \$1.00. According to the Joint Committee on Taxation, the cigarette tax will raise \$6.4 billion in federal revenues in FY2010 with all federal tobacco taxes increases raising \$7.1 billion. A similar tax increase was contained in the Senate bill, and in the final proposal, P.L. 111-3 (although in both case the tax was increased by an additional two thirds of a cent, to \$1.0066.) The analysis suggests that state and local governments will lose about \$1 billion in cigarette tax revenues and up to \$0.5 billion in lost revenues from the tobacco settlement payments. The legislation is now being considered in the Senate.

A justification is to discourage teenage smoking, but this effect is probably small; a reservation is that the burden falls heavily on low-income individuals. Taxes on other tobacco products are also increased, although cigarette taxes account for most tobacco revenues.

In the 110th Congress, the President vetoed the 110th Congress SCHIP proposal on October 3, 2008, the House failed to override the veto and a new bill, H.R. 3963 passed the House and Senate, with no changes in the cigarette tax, but changes in spending rules, and the President vetoed that version on December 12, 2008.

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Introduction

This report discusses proposals to raise the cigarette tax to help pay for reauthorization of the State Children's Health Insurance Program. This report describes current taxes, discusses potential revenue gains, and discusses some of the basic issues surrounding a tax increase. It also briefly discusses the tax increase on cigars. H.R. 2 passed the House on January 14, 2009 and it included the same cigarette tax as proposed in the 110th Congress, an increase of 61 cents per pack, raising the tax from 39 cents to \$1. The estimated revenues in the House bill were \$64.7 billion for FY2009-FY2018, with \$57.3 billion of the total from cigarettes. The Senate version and the final legislation, P.L. 111-3 includes taxes similar to H.R. 2 (very slightly higher across the board, with a 61.66 cents increase in cigarette taxes).

Tax Changes and Revenue Effects

The vast majority of tobacco taxes are on cigarettes, which account for 94% of tobacco sales (totaling \$75 billion in 2007).¹ Federal cigarette taxes are \$0.39 per pack, accounting for 94% of federal tobacco tax revenue. There is a 4 cent tax on a package of small cigars. Large cigars carry a tax of 20.719% of sales price, not to exceed \$48.75 per 1,000 units, leading to a maximum tax of almost 5 cents per cigar. Per ounce, the tax is 7 cents on pipe tobacco; 1 cent on chewing tobacco; 4 cents on snuff; and 7 cents on pipe and roll-your-own tobacco. There are also taxes on cigarette paper and cigarette tubes.

The 61-cent cigarette tax increase would lead to a tax about 2.5 times the current tax; these same proportions are proposed for snuff, chewing, tobacco and pipe tobacco. Roll your own tobacco's tax increases about eight fold and seven fold and the relatively small taxes on small cigars are increased to those on cigarettes. Large cigars are the only tobacco product with a tax based on price, but they also have a cap; the price-based tax rises in proportionally, but the cap increases by much more, from 5 cents per cigar to \$0.40 in the House bill (\$0.4026 in the Senate Finance bill and the final legislation).²

Tobacco tax receipts in the United States in FY2007 included \$7.5 billion in federal tax, \$16.2 billion in state and local taxes, and \$8 billion in payments from the Master Tobacco Settlement.³ State and local taxes, therefore, were roughly 88 cents per pack and the tobacco settlement payment is approximately the same as the federal tax, 43 cents per pack. Although the tobacco settlement payments resulted from negotiations between the tobacco companies and the states to settle state lawsuits, the payments function as if they were a national tobacco excise tax that is allocated to the states, and any changes that alter consumption would affect these payments. Some of the states have securitized their payments (exchanged the stream of payment for a fixed up-front amount). According to estimates, about a quarter of payments are made to private investors, rather than to state and local governments.⁴ As a percentage of sales revenues, the

¹ *Standard and Poor's Industry Surveys: Alcoholic Beverages and Tobacco*, November 6, 2008.

² For details on the bill and the tax increases on all tobacco products see CRS Report R40116, *The Genetic Information Nondiscrimination Act of 2008: Selected Issues*, by Amanda K. Sarata, *The Children's Health Insurance Reauthorization Act of 2009*, by Evelyne P. Baumrucker, Elicia J. Herz, Chris L. Peterson and Jane G. Gravelle.

³ Data on federal tax revenues from Alcohol and Tobacco Tax and Trade Bureau, Cumulative Summary, Fourth Quarter FY2007. Data on state and local taxes from U.S. Census Bureau tables; Quarterly Summary of State and Local Government Tax Revenue. Data on tobacco settlement payments for 2007 are from Campaign for Tobacco Free Kids: <http://www.tobaccofreekids.org/reports/settlements/2008/spendingrevenues.pdf>.

⁴ Payments received by the states are estimated at \$5.8 billion in FY2005 and \$5.4 billion in FY2006, because many

federal, state and local, and tobacco settlement payments are respectively 10.0%, 21.6% and 10.7%, for a total of 42.2%.

The Joint Committee on Taxation projected an FY2010 revenue gain of \$6.4 billion from the 61 cent increase. CRS estimates suggest there will be a loss of revenue to the states approaching \$1.5 billion.⁵

Issues Surrounding Tobacco Taxes

There are many alternative sources of revenue (or offsetting spending) for funding the child health program. Are tobacco taxes the most desirable source of revenue? Compared to other taxes, the incentive effects may be desirable. At the same time, the burden falls heavily on lower income people, which may be of concern. Thus, there is a trade-off between the objective of discouraging smoking, and particularly discouraging youth smoking, and the distributional effects of the tax. The remaining issue involves an economic efficiency question relating to arguments that have been made that additional taxes are appropriate to cover costs smokers impose on others. A number of economic studies have questioned that proposition. The following sections discuss these issues.

Effect on Smoking and Health

A large body of literature has suggested that increases in the price of tobacco reduce smoking. However, this response is not very large (in economists' parlance, the response is relatively "inelastic"). Most of the evidence has found the price elasticity to be between 0.3 and 0.5 in absolute value, meaning that a 10% increase in price would cause a 3% to 5% decrease in the number of cigarettes smoked.⁶ For older adult smokers, about half of this effect was due to fewer

states have securitized their tobacco settlement payments. Data on state tobacco payments are from Government Accountability Office, *Tobacco Settlement: States' Allocation of FY2005 and Expected FY2006 Payments*, GAO-06-502, April 2006.

⁵ Joint Committee on Taxation, JCX-04-09, January 14, 2009. To explain revenue effects, consider the effects in the same year, 2007, as the data reported in this analysis. Note initially that the revenue gain of \$6.4 billion reported for the cigarette tax in the first full years (FY2010) appears low, since a 61 cent increase is 1.56 times the current tax of 39 cents per pack, and would appear to raise around \$11.7 billion (1.56 times \$7.5 billion). The revenue gain is reduced by the consumers' quantity response, generally an elasticity (percentage change in quantity divided by percentage change in price) of around 0.4, so a 10% increase in price will reduce quantity consumed by 4%. In the example considered here, given the tax as a share of price, the price increase would be 15.6% (1.56 times \$7.5 billion divided by sales of \$75 billion), and the quantity consumed would fall by 6.25% (0.4 times 15.6%). That reduction in quantity is applied to both the old (\$7.5 billion) and the new (\$11.7 billion), yielding a fall in revenues of approximately \$1.2 billion and a net gain of \$10.5 billion. The number should also be multiplied by 0.94 to eliminate the tax levied on other tobacco products and by 0.75 to account for the effect of excise taxes on corporate income taxes. The net yield is projected at \$10.2 billion times 0.94 times 0.75 or \$7.5 billion. (This number is much closer to the JCT number; their smaller number probably reflects in part the expected decline in smoking over the three years from FY2007 to FY2010, and could presumably also reflect a larger behavioral response.) The behavioral response from a federal tax increase would reduce state and local taxes absent other changes—by 6.25%. Therefore, state and local revenues of \$16.2 billion would fall by \$1 billion, and tobacco settlement payments of \$8 billion would fall by \$0.5 billion, for a total of almost \$1.5 billion.

⁶ For a review of the literature on price elasticities for cigarettes, See CRS Report 94-214, *Cigarette Taxes to Fund Health Care Reform: An Economic Analysis*, by Jane G. Gravelle and Dennis Zimmerman, and CRS Report 97-995, *The Proposed Tobacco Settlement: Effects on Prices, Smoking Behavior, and Income Distribution*, by Jane G. Gravelle (out of print; available to congressional clients from the author by request). For a review, see also Badi H. Baltagi and Rageev K. Goel, "State Tax Changes and Quasi-Experimental Price Elasticities of U.S. Cigarette Demand: An Update," *Journal of Economics and Finance*, vol. 28, fall 2004, pp. 422-429.

smokers (a participation response) and about half due a reduction in smoking (a quantity response). For younger smokers, the participation response was more important. There is some evidence that the response declines with age and that it rises with income, and that it is higher for women, African-Americans, and Hispanics.⁷ A recent study, however, found no variation with income.⁸

Some recent studies suggest that the response may be less, or that the benefits of reducing smoking may be less. There is some evidence that the response has been declining, an unsurprising outcome since, given a decline in smoking, the remaining smokers are more resistant to price signals. In addition, there is evidence that elasticities might be overstated in studies that compare state smoking levels because states with higher taxes may also have populations more hostile to smoking.⁹ Also, recent studies found that smokers may respond to price increases by increasing the intensity of smoking by buying cigarettes with more nicotine and tar, inhaling more deeply and smoking closer to the filter, which could have deleterious effects since more intensive smoking can be more harmful.¹⁰

Due to the limited effects on adult smoking, some arguments have been made that the increased taxes on adults are necessary over the interim to discourage teenage smoking. Evidence has suggested that teenage smoking is more responsive to price; the original responses were estimated at elasticities over one, but subsequent analysis led to an estimate of around 0.7 and a number of recent studies have confirmed this general range.¹¹ Other studies have found smaller responses,¹² or a very small response by younger teenagers.¹³ One recent study replicated the 0.7 elasticity using one statistical approach, but in using another the authors consider superior, they found essentially no response of the initiation of smoking to price.¹⁴ Another paper found a weak and

⁷ The previous CRS reports cited provide evidence of the age effect; see also Matthew C. Farrelly, Jeremy W. Bray, Terry Pechacek, and Trevor Woolery, "Response by Adults to Increases in Cigarette Prices by Sociodemographic Characteristics," *Southern Economic Journal*, vol. 38, July 2001, pp. 156-165.

⁸ Greg Colman and Dahlia K. Remler, *Vertical Equity Consequences of Very High Cigarette Tax Increases: If the Poor are the Ones Smoking: How Could Cigarette Tax Increases be Progressive?*, National Bureau of Economic Research Working Paper 10906, November 2004.

⁹ Baltagi and Goel, "State Tax Changes and Quasi-Experimental Price Elasticities of U.S. Cigarette Demand: An Update;" Theodore E. Keeler, The-wei Hu, Williard G. Manning, and Hai-Yen Sung, "State Tobacco Taxation, Education and Smoking: Controlling for the Effects of Omitted Variables," *National Tax Journal*, vol. 54, March, 2001, pp. 83-102. Both studies found a decline over time and the latter study found an overstatement of elasticities because of state effects. Another study found variations in elasticities across states; Macki Aissoko, "Cigarette Consumption in Different U.S. States, 1955-1998: An Empirical Analysis of the Potential Use of Excise Taxation to Reduce Smoking," *Journal of Consumer Policy*, vol. 25, March 2002, pp. 89-106.

¹⁰ Jerome Adda and Grancesca Cornaglia, "Taxes, Cigarette Consumption, and Smoking Intensity," *American Economic Review*, vol. 96, September 2006, pp. 1013-1028. This study reviews other studies that also found smoking intensity effects.

¹¹ Jonathan Gruber and Jonathan Zinman, *Youth Smoking in the U.S.: Evidence and Implications*, National Bureau of Economic Research Working Paper 7780, July 2000; John A. Tauras, Patrick M. O'Malley, and Lloyd D. Johnston, *Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis*, National Bureau of Economic Research Working Paper 8331, June 2001; Hana Ross and Frank Chaloupka, *The Effect of Cigarette Prices on Youth Smoking*, ImpacTeen, Research Paper Series No. 7, February 2001.

¹² William Evans and Lynn Huang, *Cigarette Taxes and Teen Smoking: New Evidence from Panels of Repeated Cross Sections*, Working Paper, University of Maryland, April 15, 1998.

¹³ Jonathan Gruber, *Youth Smoking in the U.S.: Prices and Policies*, National Bureau of Economic Research Working Paper 7506, January 2000.

¹⁴ Philip DeCicca, Donald Kenkel, and Alan Mathios, "Putting Out the Fires: Will Higher Taxes Reduce the Onset of Teenage Smoking?," *Journal of Political Economy*, vol. 110, February 2002, pp. 144-169.

insignificant effect after controlling for anti-smoking sentiment.¹⁵ While much evidence suggests that teenagers are more responsive to prices, these recent studies raise some questions about the effectiveness of tax increases on teenage smoking, especially among young teenagers.

The evidence on smoking indicates that higher prices will decrease smoking participation and quantity. It is possible, however, that other types of interventions, such as stricter regulations on sales to teenagers, counseling, education, and assistance with smoking cessation might be more effective.

Distributional Effects

It is generally recognized that cigarette taxes are one of the most regressive taxes, that is, a tax that falls more heavily on lower income individuals as a percentage of income. Indeed, it is probably the most regressive of the federal taxes. Smokers tend to smoke a fixed amount of cigarettes, so that they pay a fixed amount of tax. (Since the tax is a fixed amount per pack, lower income individuals who buy cheaper brands still pay the same amount of tax.) In addition, smoking is more prevalent among lower income individuals.

To illustrate, in 1998 the Joint Committee on Taxation estimated that a 76 cent tax increase (brought about through a proposed federal tobacco settlement) would raise the effective tax rate on average by 0.3% of income, but would increase the burden of those with incomes below \$10,000 by 2% of income and the burden of those in the \$10,000-\$20,000 income by 0.6% of income.¹⁶ Since this rate applies to all families, those families with smokers would pay more. For example, a family with one smoker who smokes 1.5 packs a day would pay, with a 76 cent tax, an additional \$417 in taxes, which is 4.2% of a \$10,000 income and 8.4% of a \$5,000 income.

To the extent the burden of the tax falls on low-income families and the individuals in those families continue to smoke, low-income children in some families could be harmed even though the child health care provision helps low-income children in general.

Economic Efficiency

A final issue that may arise relevant to cigarette taxes is the argument that higher taxes should be imposed on smokers because they impose costs on others largely through higher health care costs paid for through government and private insurance plans, lost days at work, and some other costs. Some economists have questioned this argument, however, because smokers' premature deaths, while harmful to smokers and their families, reduce costs of certain government programs such as Social Security, Medicare, and Medicaid.¹⁷ These calculations do not account for more subjective effects such as irritation to others, although such problems might be better addressed through private market mechanisms (provision of smoking and non-smoking commercial establishments) and regulation. Some disputes about the magnitude of environmental tobacco smoke remain.

If smokers are not imposing costs on others, or imposing costs that are less than existing taxes, and if they are making rational decisions to engage in an activity which, while damaging to their health, is nevertheless pleasurable, then an additional tax would not increase economic efficiency.

¹⁵ Philip DeCicca, Donald Kenkel, Alan Mathios, Yoon-Jeong Shin, and Jae-Young Lim, *Youth Smoking, Cigarette Prices, and Anti-smoking Sentiment*, National Bureau of Economic Research Working Paper 12548, August 2006.

¹⁶ Joint Committee on Taxation, *Description and analysis of revenue-related provisions of S. 1415 relating to the national tobacco policy as modified by the manager's amendment*, JCX-45-98, June 3, 1998.

¹⁷ See W. Kip Viscusi, "Tobacco Taxes," In *The Encyclopedia of Taxation and Tax Policy*, Ed. Joseph J. Cordes, Robert D. Ebel, and Jane G. Gravelle, Washington, DC, Urban Institute, 2005.

It is not clear, however, whether young smokers, where smoking is generally initiated, are able to fully assess the costs of smoking.

Cigar Tax Increases

Although taxes on other products are a small part of total tobacco taxes, there has been some controversy about the increases for cigars in 110th Congress proposals and their potential disruption of the industry, as reported in the media.¹⁸ Small cigar taxes increase by a factor of 27. They are apparently viewed by some as substitute for cigarettes who argue they should bear the same tax. Small cigars constitute less than 1/10 of 1% of cigarette sales. For large cigar taxes, which are currently a maximum of 5 cents, the tax could rise to as much as \$10 in the original Senate Finance Committee proposal in the 110th Congress. The ceiling was lowered to \$3 on the Senate floor in the 2007 legislation and the ceiling in the House bill was \$1 in 2007. H.R. 2 has a ceiling of \$0.40, which although much lower is eight times the previous maximum.

According to tax data, large cigar sales above the current 5 cents cap (premium cigars) account for about half the total. According to the Cigar Association of America, the average manufacturer's price is about \$1.90 for these premium cigars; the average tax on these cigars would be almost a dollar (0.5313 times \$1.90 minus \$.05) in the original 110th Congress Senate proposal, but much smaller in the House bill because of lower rate and cap and smaller in the final proposal. Most state cigar taxes are based on value and would apply to the federal tax; they are estimated by the Cigar Association of America at about 30%. If retail prices are twice the manufacturer's price the price of large cigars under the cap in the original Senate proposal would have risen by 20.8% and the price of large cigars over the cap, while varying considerably, would have averaged a 33% increase. Prices would rise more if there is also a retailers markup on the tax. The ceiling of \$0.4026 would result in much more modest effects.

There is less information on the effects of other tobacco products on health or the behavioral response. If the purpose of the tax on cigars is to account for health costs, a per unit rather than a price based tax would seem appropriate. Cigars may differ from cigarettes in that a larger share may be likely to be smoked only occasionally and would therefore be less harmful to health. They may also be less concentrated at lower incomes. The occasional usage (lack of addictiveness) may mean a larger price response, but the usage by higher income consumers may mean a smaller response.

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¹⁸ See for example James Thorner, Cigarmakers in a Panic, *St. Petersburg Times*, June 17, 2007, http://www.sptimes.com/2007/07/17/Business/Cigarmakers_in_a_pani.shtml and Sarah Lueck, "Does the Country Need a \$10 Cigar Tax?" *Wall Street Journal*, July 19, 2007, p. D7.

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